

REMARKS

Initially, Applicants would like to express appreciation to the Examiner for the detailed Official Action provided and for the acknowledgment of Applicants' Information Disclosure Statement by return of the Form PTO-1449. Applicants also note that the Examiner has not indicated that the drawings have been approved by the Official Draftsperson on a Form PTO-948. The Examiner is thus requested to indicate that Applicants' drawings are acceptable in the next Official Action.

Applicants note that the Examiner has not acknowledged Applicants' Claim for Priority and receipt of the certified copy of the priority document. It is pointed out that the Claim for Priority and the certified copy of the priority document (Japanese Patent Application No. 2002-267298) were filed along with the present application on September 11, 2003. Accordingly, Applicants respectfully request that the Examiner acknowledge Applicants' Claim for Priority and receipt of the certified copy of the priority document in the next Official Action.

Upon entry of the above amendment, the specification and claims 1-3 will have been amended. Accordingly, claims 1-3 are currently pending. Applicants respectfully request reconsideration of the outstanding objections and rejections and allowance of claims 1-3 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has objected to the specification for minor informalities. In response thereto, Applicants have amended the specification as suggested by

the Examiner. Accordingly, in view of the above noted amendments and remarks, it is believed that the objections to the specification have been overcome, and Applicants respectfully request reconsideration and withdrawal of the outstanding objections.

The Examiner has rejected claims 1-3 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully submit that in view of the herein contained amendments and remarks, the basis for such rejection is no longer appropriate and Applicants thus respectfully request reconsideration and withdrawal of the rejection of claims 1-10 under 35 U.S.C. § 112, second paragraph.

The Examiner has rejected claims 1 and 3 under 35 U.S.C. § 112, second paragraph, as lacking proper antecedent basis for "the rod". In response thereto, Applicants have amended claim 1 to recite, inter alia, "a pressure fixing device configured to pressure fix a rod portion". Applicants have amended claim 3 to recite, inter alia, "rod fixing apparatus for fixing a rod". Thus, the claims, as amended, set forth a rod fixing apparatus for fixing a rod portion of a vertebra connection member. Clearly, the claims, as amended, do not set forth a combination of a pressure fixing device and a rod. Accordingly, in view of the above noted amendments and remarks, claims 1-3 are believed to fully comply with 35 U.S.C. § 112, second paragraph, and Applicants respectfully request reconsideration and withdrawal of the outstanding rejections under 35 U.S.C. § 112, second paragraph.

The Examiner has rejected claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by JACKSON (U.S. Patent No. 6,110,172). The Examiner takes the position that the JACKSON patent discloses a bone screw assembly including a pressure fixing device 3, 4, a rod 15, a head portion 7, and protruding portions 17 which both engage the spinal rod and provide a rough surface.

Although Applicants do not necessarily agree with the Examiner's rejection of the claims on this ground, nevertheless, Applicants have amended independent claims 1 and 3 to clearly obviate the above noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicants note that JACKSON fails to show each and every element recited in the amended claims. In particular, claim 1, as amended, sets forth a rod fixing apparatus for fixing a rod including, inter alia, a pressure fixing device and "protruding portions configured to eat into the rod portion in both end sides of the circular arc rod engagement portion outside the pressure fixing device, the protruding portions extending in a direction substantially perpendicular to a longitudinal direction of the vertebra connecting member". Claim 3, as amended, sets forth a rod fixing apparatus for fixing a rod including, inter alia, a screw portion, a head portion provided with an engagement portion, and "small projections configured to eat into the rod, the small projections being provided on both sides of the groove portion, the small projections extending in a direction substantially perpendicular to a longitudinal direction of the rod". This amendment is fully supported by the specification, including the claims and drawings, and no prohibited new matter has been added. See particularly figures

2A, 2B, and 4A and pages 5-6 of Applicants' specification. In Applicants' claimed invention, the projections extend in a direction substantially perpendicular to the longitudinal direction of the rod. As shown and described in the present application, the configuration of the rod fixing apparatus provides that the protruding portions on either side of the rough recess surface bite into the rod and firmly fix the rod.

The JACKSON patent discloses an assembly including a bone screw 2 having a U-shaped channel 10, and a plurality of ridges 17 on the lower curved edge of the channel. As clearly shown in figures 1 and 2 of the JACKSON patent, the ridges 17 extend substantially parallel to the longitudinal direction of the spinal rod 15.

Accordingly, the JACKSON patent does not disclose a rod fixing device for fixing a rod including, inter alia, "protruding portions configured to eat into the rod portion in both end sides of the circular arc rod engagement portion outside the pressure fixing device, the protruding portions extending in a direction substantially perpendicular to a longitudinal direction of the vertebra connecting member", as set forth in claim 1, as amended. Further, the JACKSON patent does not disclose a rod fixing device for fixing a rod including, inter alia, "small projections configured to eat into the rod, the small projections being provided on both sides of the groove portion, the small projections extending in a direction substantially perpendicular to a longitudinal direction of the rod", as set forth in amended claim 3. Since the reference fails to show each and every element of

the claimed device, the rejection of claims 1 and 3 under 35 U.S.C. § 102(b) over JACKSON is improper and withdrawal thereof is respectfully requested.

Accordingly, Applicants respectfully requests reconsideration and withdrawal of the rejections, and an early indication of the allowance of claims 1-3.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the present amendment is proper and that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicants' invention as recited in claims 1-3. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

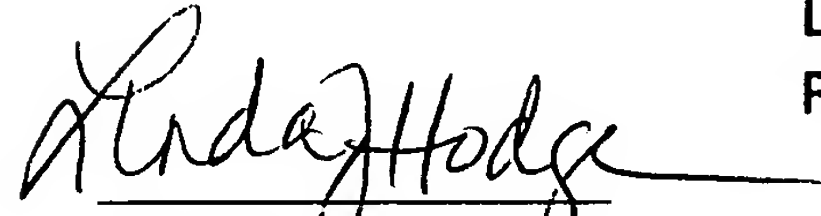
Accordingly, consideration of the present amendment, reconsideration of the outstanding Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection base upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

Respectfully Submitted,
Nobumasa SUZUKI et al.

A handwritten signature in black ink, appearing to read "Linda J. Hodge", with a horizontal line extending to the right.

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